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Human resources management

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Report of the Advisory Committee on Administrative and Budgetary Questions

I. Introduction

1. The Advisory Committee on Administrative and Budgetary Questions has considered the following reports of the Secretary-General:

(a) Amendments to the Staff Regulations and Rules (A/70/135);

(b) Practice of the Secretary-General in disciplinary matters and cases of possible criminal behaviour, 1 July 2014 to 30 June 2015 (A/70/253);

(c) Activities of the Ethics Office (A/70/307).

2. During its consideration of the reports, the Advisory Committee met with representatives of the Secretary-General, who provided additional information and clarification, concluding with written responses received on 21 December 2015.

II. Amendments to the Staff Regulations and Rules

3. The report of the Secretary-General on amendments to the Staff Regulations and Rules contains the full text of those rules, and of appendix D to the Staff Rules, proposed for amendment, to become effective on 1 January 2016. The text of the rules is presented with the proposed amendments in annexes I and II to the report.

4. The report indicates that, in staff rule 4.15, on Senior Review Group and central review bodies, provisions have been amended for the purpose of implementing the new managed mobility framework endorsed by the General Assembly in its resolution 68/265 and for simplifying the rule. The proposed amendments to staff rule 4.15 (a), including the deletion of the reference to the D-2 level, allow for simultaneous operation of the pre-existing staff selection system, including the Senior Review Group (which reviews recommendations for filling

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posts only at the D-2 level),[1] and the new staff selection system, including the Senior Review Board (which will review recommendations for filling posts at both D-1 and D-2 levels).

5. The Advisory Committee notes that the administrative issuances related to the new staff selection and managed mobility system were issued at the end of December 2015. Therefore the membership, roles and functions of the new Senior Review Board and Global Central Review Board are now set out in new Secretary-General's bulletins.[2]

6. The Advisory Committee was informed upon enquiry that, as the new staff selection and mobility system will be implemented in a phased manner by job network, beginning with POLNET[3] in 2016, the previously existing staff selection system and review bodies will continue to apply to those job networks that are not yet operational under the new staff selection and mobility system. Accordingly, positions at the D-1 and Professional levels in job networks not yet operational under the new staff selection and managed mobility system will continue to be reviewed by the pre-existing central review bodies. The Committee was also informed that the provisions under staff rule 4.15 (b) (i), (ii) and (iii), which are proposed for deletion, would still be contained in section 2 of ST/SGB/2011/7 for that purpose.

7. In addition, the Advisory Committee was informed that staff rule 4.15 (d) is proposed for deletion for the purpose of simplification, as it contains provisions duplicated in section 3.9 of the Secretary-General's bulletin ST/SGB/2011/7 relating to the length of appointment of service on the central review bodies. Regarding the proposed deletions in staff rule 4.15 (h), the Advisory Committee was informed upon enquiry that, in the light of their technical content, the proposed deletions would be more appropriately reflected in an administrative instruction. **The Advisory Committee is not fully convinced of the need to remove the provision related to the term limits for the members of the central review bodies from the Staff Rules. The Committee therefore recommends that the Secretary-General provide additional justification to the General Assembly on this matter.**

8. Following the extension of the mandatory retirement age to 65 for staff appointed on or after 1 January 2014,[4] an amendment is proposed to staff rule 5.3 (d) relating to special leave for pension purposes to reflect the changes made to article 29 of the Regulations of the United Nations Joint Staff Pension Fund, which introduced an early retirement age of 58 for staff members who entered the Fund on or after 1 January 2014 (see A/70/135, para. 4).

9. As part of the Secretary-General's zero-tolerance policy on sexual exploitation and abuse, a new provision is proposed under staff rule 9.9 (b) to ensure that accrued annual leave will not be paid to a staff member who is dismissed for sexual exploitation and abuse (see A/70/135, para. 5). The General Assembly, in its

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[1] The composition, roles and function of the Senior Review Group are contained in the Secretary-General's bulletin ST/SGB/2011/8.

[2] The new staff selection and managed mobility system include Secretary-General's bulletins introducing the new system (ST/SGB/2016/2), on the Senior Review Board (ST/SGB/2016/3) and on the Global Central Review Board (ST/SGB/2016/4), as well as an administrative instruction (ST/AI/2016/1) and an information circular (ST/IC/2016/3).

[3] The Political, Peace and Humanitarian Network.

[4] Staff regulation 9.2.

resolution 68/252 on human resources management, encouraged the Secretary-General to continue to make every effort to ensure that his zero-tolerance policy on sexual exploitation and abuse is enforced at all times by all United Nations personnel. The Advisory Committee was informed upon enquiry that this additional sanction is limited to cases in which a staff member is dismissed for sexual exploitation or abuse to reinforce the importance of the policy on this matter.[5] The Committee was further informed that the Office of Legal Affairs had reviewed the proposal and confirmed that it had no objections from a legal standpoint. **The Advisory Committee welcomes the new staff rule 9.9 (b) as a first step and encourages the Secretary-General to include in his next report a proposal to broaden the scope of staff rule 9.9 (b) to cover other types of serious misconduct.**

10. The Secretary-General is proposing the first revision of the appendix D to the Staff Rules entitled "Rules governing compensation in the event of death, injury or illness attributable to the performance of official duties on behalf of the United Nations" since its adoption.[6] The revision reflects the applicable legal review mechanisms under the Staff Regulations and Rules in order to provide required definitions and procedural clarifications based on established practice and in the light of United Nations Dispute Tribunal and United Nations Appeals Tribunal jurisprudence, and to align the rules with best practice standards (see A/70/135, para. 6).

11. The major changes to appendix D are listed in paragraph 8 of the report. The Secretary-General states that some of the changes in calculation bases will result in increases in overall compensation for future cases of service-incurred injury, illness or death, in particular for survivors of staff who die in service. The Secretary-General states, however, that the overall cost impact of the changes on the 2016-2017 programme budget requirements will be minimal (see A/70/135, para. 9).

III. Practice of the Secretary-General in disciplinary matters and cases of possible criminal behaviour

12. The report on the practice of the Secretary-General in disciplinary matters and cases of possible criminal behaviour was submitted in response to General Assembly resolution 59/287, in which the Assembly requested the Secretary-General to inform Member States on an annual basis about all actions taken in cases of established misconduct and/or criminal behaviour and the disciplinary action and, where appropriate, legal action taken in accordance with the established procedures and regulations. The report, which is the eleventh such report and covers the period from 1 July 2014 to 30 June 2015, provides a broad overview of the administrative machinery in disciplinary matters, a summary of cases for which one or more disciplinary measures were imposed by the Secretary-General during the reporting period, comparative data reflecting the number of cases referred for action and the disposition of cases completed and information on the practice of the Secretary-General in cases of possible criminal behaviour.

[5] The proposed amendment was announced in the report of the Secretary-General on special measures for protection from sexual exploitation and sexual abuse (A/69/779).

[6] See ST/SGB/2014/1, appendix D.

13. In section IV of his report, the Secretary-General includes data on the 148 cases completed during the reporting period, compared with 115 cases during each of the previous reporting periods ending on 30 June 2013 and 30 June 2014 (see A/70/253, table 2). The Secretary-General states that in the reporting period ending on 30 June 2015, 15 per cent of the cases handled were not pursued as disciplinary matters; while in the previous two reporting periods the corresponding percentages were 27 per cent and 20 per cent respectively. The increase in the number of cases pursued as disciplinary cases led to an increase in the number of disciplinary measures imposed: during the reporting period, 64 disciplinary measures were imposed compared with 39 and 43 measures respectively in the previous two reporting periods (ibid., para. 83). The Secretary-General considers that the increase is a result of the greater awareness by investigating entities of the relevant jurisprudence and the increasing responsiveness to requests for information from the Office of Human Resources Management. The average time taken to dispose of cases after their referral to the Office was 8.4 months (ibid., para. 81).

14. The Advisory Committee was informed upon enquiry that the average amount of time taken to investigate a case varies depending on the entity in charge of the investigation. During the reporting period, the average duration of investigations were as follows: (a) Office of Internal Oversight Services: 7.9 months; (b) Department panels: 7.7 months; (c) Special Investigation Unit/Department of Safety and Security: 8.4 months. **The Advisory Committee considers that the Office of Human Resources Management should be notified as soon as an investigation is initiated and should monitor the amount of time taken by each investigative entity to conduct its investigations.**

15. The Secretary-General indicates in his report that a new administrative instruction on investigations and the disciplinary process continues to be under preparation and remains the subject of ongoing discussion and consultation among management and other stakeholders. In his report, the Secretary-General anticipated that a new policy would be promulgated at the end of 2015 or early in 2016 (see A/70/253, para. 6). Upon further enquiry, the Advisory Committee was subsequently informed that the Office of Human Resources Management anticipates submitting the revised policy to the Staff-Management Committee in April 2016 and that it will be promulgated in the third quarter of 2016. In its previous report on human resources matters (see A/69/572, para. 157), the Advisory Committee had recalled paragraph 22 of General Assembly resolution 68/252 encouraging the swift finalization of the new policy and the Secretary-General's report mentioning the end of 2014 or early 2015 as the expected completion date (see A/69/283, para. 17). **The Advisory Committee regrets that the revised administrative instruction on investigations and the disciplinary process has not yet been issued and expects that it will be promulgated without further delay.**

16. The report includes data on the number of appeals contesting disciplinary measures imposed since the introduction of the new system of administration of justice in 2009 and the status of those appeals before the United Nations Dispute Tribunal and the United Nations Appeals Tribunal (see A/70/253, tables 3 and 4). The Secretary-General notes that a relatively small percentage of disciplinary measures have been appealed since the inception of the new system and that the proportion of disciplinary measures appealed by staff members has progressively declined (ibid., para. 85).

17. Regarding the measures preventing the re-employment of staff members separated in the context of a disciplinary procedure, the Advisory Committee was informed, upon enquiry, that the Office of Human Resources Management places a note on the separated member's official status file when he or she separates or retires during an investigation or a disciplinary procedure. That permits the Organization to proceed with the investigative/disciplinary processes should the staff member be re-employed. With respect to the recruitment of consultants, the relevant administrative instruction entitled "Consultants and individual contractors" (ST/AI/2013/4), provides that former staff members may not be hired as a consultant or individual contractor if they have been separated from the United Nations or another organization of the United Nations common system for: abandonment of post, misconduct, dismissal, non-renewal or termination of appointment for unsatisfactory service and/or resignation in lieu of disciplinary action. The hiring of a former staff member as a consultant/individual contractor requires clearance from the Office of Human Resources Management, including review of official status files to determine the reasons for his or her separation.

IV. Activities of the Ethics Office

18. The tenth annual report of the Secretary-General on the activities of the Ethics Office, submitted in accordance with General Assembly resolution 60/254, provides an overview and assessment of the work programme of the Office from 1 August 2014 to 31 July 2015. During its consideration of the report, the Advisory Committee met with representatives of the Secretary-General, who provided additional information and clarification, concluding with written responses received on 11 December 2015.

19. During the reporting period, the Ethics Office received 980 requests for its services, representing an increase of 56 requests, or 6 per cent, compared with the period from August 2013 to July 2014 (see A/70/307, figure I) and the highest number of requests, over a single reporting cycle, since the establishment of the Office in January 2006. A breakdown of requests for services by location and entity is provided in figure II of the report.

20. In terms of the type of service request, the report indicates that the Ethics Office responds to requests regarding general ethics advice, the financial disclosure programme, protection against retaliation, training and outreach, standard-setting and policy support (see A/70/307, figure III). The highest number of requests for advice received during the reporting period relates to outside activities. According to the Secretary-General, the consistently high number of such requests reflects significant staff awareness of the need to consult on proposed external activities in the light of their obligations to the Organization (ibid., para. 14). The current reporting period saw a decrease in the number of inquiries recorded under the category of misconduct reporting procedure: 41 requests compared with 117 during the previous cycle. The decrease is attributed to the redefinition of the category. Many enquiries are now categorized as employment-related concerns (a total of 161 requests during the most recent reporting cycle).

21. In connection with efforts to clarify the mechanisms for reporting alleged wrongdoing, the Advisory Committee was informed upon inquiry that in September 2014, the Ethics Office, in cooperation with the Office of Human Resources

Management, had launched a new online ethics training course entitled "Ethics and integrity at the United Nations". The new training course is mandatory for all incoming and existing staff members, and includes a module on staff reporting obligations and reporting mechanisms. Moreover, the Ethics Office's publication, entitled "The roadmap: a staff member's guide to finding the right place", which includes a chapter on reporting misconduct, has been updated and translated into all six official United Nations languages.

22. **The Advisory Committee welcomes the efforts taken to provide explanatory details concerning the different mechanisms to report allegations of misconduct and stresses that all efforts be undertaken to ensure that the reporting and advisory mechanisms relating to cases of alleged wrongdoing are clear to all United Nations personnel.**

23. The Secretary-General indicates in his report that the Ethics Office continues to provide independent advice on issues relating to the ethics, anti-corruption and corporate compliance programmes for vendors seeking to do business with the Organization. The Ethics Office responded to queries from the Procurement Division regarding 18 vendors at various stages of the reinstatement process[7] and continued to advise the Department of Management and the Department of Field Support on compliance monitoring for two vendors (see A/70/307, para. 17). Upon enquiry, the Advisory Committee was informed that the Ethics Office was in the process of recruiting a candidate for a new Corporate Ethics and Compliance Officer post at the P-5 level. As at 11 December 2015, the Office had conducted interviews of suitable candidates who had passed the written technical proficiency exam. **The Advisory Committee recalls that the General Assembly approved the establishment of the new post of Corporate Ethics and Compliance Officer (P-5) to be funded from the support account for peacekeeping operations from 1 July 2014 to 30 June 2015 in its resolution 68/283, and trusts that this post will be filled expeditiously.**

24. Information on the implementation of the financial disclosure programme administered by the Ethics Office is contained in part B of section III of the report. The Advisory Committee notes in particular that the programme covered 5,043 filers during the 2014 filing cycle, compared with 4,573 filers during the 2013 cycle. As at the closing of the 2014 filing cycle, the programme had achieved a compliance rate of 100 per cent, the first time in the history of the programme that full compliance had been attained (see A/70/307, para. 21). According to the report, the programme's external reviews concluded that 177 filers had a total of 193 items or activities that required assessment for potential conflicts of interest, compared with 172 filers with 189 items in the 2013 filing cycle. The report further indicates that of these 193 items, 58 were related to financial holdings, 53 to outside activities, 78 to family relationships and 4 to other categories.

25. In terms of the voluntary public disclosure initiative open to senior officials at the level of Assistant Secretary-General and above, of the 151 senior officials eligible to participate in the 2014 exercise, 103 opted to publicly disclose a summary of their assets, liabilities and outside interests (see A/70/307, para. 30). In the previous exercise, of the 153 eligible senior officials, 93 opted for voluntary disclosure. Upon enquiry, the Advisory Committee was informed that of the 48

[7] The vendors had been excluded by the Organization from the roster of potential suppliers. They will have to satisfy ethics and integrity requirements in order to be reinstated.

senior officials who did not participate in the latest disclosure initiative, 4 officials indicated their willingness to participate but did not complete the required procedures on time and 44 officials declined to participate. Of those officials who declined, 5 of them cited security- and safety-related concerns, 11 mentioned privacy-related reasons and 4 referred to cultural and personal issues; the remaining 24 officials did not mention any specific reason. **The Advisory Committee is of the view that participation in the initiative should be encouraged, especially considering the low number of senior officials who provided a justification for not participating in the voluntary disclosure initiative. The Committee therefore trusts that the Secretary-General will continue to encourage senior officials who have not yet publicly disclosed a summary of their assets to do so in future cycles (see also A/68/523, para. 33; A/67/545, para. 166; and A/69/572, para. 168).**

26. With regard to the protection of staff against retaliation from reporting misconduct and for cooperating with duly authorized audits or investigations (see ST/SGB/2005/21), the report indicates that during the reporting period the Ethics Office received 40 inquiries relating to the Organization's policy on protection against retaliation. This compares to 55 inquiries in the previous reporting period. Of the 40 inquiries, the Office had initiated 15 preliminary reviews. Of those, seven reviews did not raise prima facie cases of retaliation, one staff member abandoned the protection against retaliation, one case was resolved informally and the remaining cases were still under preliminary review as at 10 August 2015 (see A/70/307, para. 40).

27. The Secretary-General also indicates that an external expert review of the policy was completed in 2014 and a revised policy proposal was presented at a meeting of the Staff-Management Committee in April 2015. Subsequently, a Staff-Management working group had held its first meeting on the subject in June 2015 (see A/70/307, para. 43). **The Advisory Committee trusts that the revised policy will be promulgated without further delay.**

V. Conclusion

28. **Subject to its comments and recommendations, the Advisory Committee recommends that the General Assembly take note of the reports of the Secretary-General on the amendments to the Staff Regulations and Rules, disciplinary matters and cases of possible criminal behaviour and the activities of the Ethics Office.**

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